Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase II;	)	CC Docket No. 00-199
	)	
Amendments to the Uniform System of Accounts for Interconnection;	)	CC Docket No. 97-212
	)	CC Docket No. 80-286
Jurisdictional Separations Reform and Referral to the Federal-State Joint Board;	)	
	)	
Local Competition and Broadband Reporting.	)	CC Docket No. 99-301

REPLY COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION AND BACKGROUND

On November 5, 2001, the Federal Communications Commission (FCC) released a Further Notice of Proposed Rulemaking (FNPRM) in the above-captioned proceedings. The FCC's FNPRM was released as a companion proposal to the "Phase I" accounting reforms adopted in CC Docket Nos. 00-199, 80-286, and 99-301. Among other things, the FCC's Phase I accounting reforms streamlined and modified its accounting rules, operating data, and financial reporting requirements. In particular, the FCC's decision eliminated 132 (45%) of Class A accounts, and added five new accounts proposed by State commissions. In addition, the number of Class B account has been reduced by 27 percent. The FCC previous decision also provides for more flexibility to carriers concerning the valuation of affiliate transactions. The FCC eliminated cost allocation manuals and biennial audits for mid-sized carriers, and streamlined the amount of required automated records management information systems (ARMIS) data.

The FCC's "Phase II" FNPRM in CC Docket Nos. 00-199 and 99-301 seeks additional information on the appropriate circumstances for the total elimination of the FCC's accounting and reporting requirements for incumbent local exchange carriers. The FCC remarks that the question is not whether further deregulation should occur, but when. Consequently, the FCC tentatively concludes that it should leave the Federal requirements in place for a period of three years to enable States to develop alternative means of gathering this information. The FCC requests comments concerning whether three years is a sufficient amount of time to transition from Federal to State information gathering mechanisms. The FCC notes that commenters should also address whether it would be necessary for each State to set up its own mechanism or whether States might work collectively to set up a mechanism to collect information for multiple States. The FCC also invites input on whether, rather than sunsetting these Federal requirements, there are other means to reform Federal requirements that serve only State regulatory needs. The FCC encourages States to consider alternative sources of such information at the State level noting that there may well come a time in the relatively near future when it concludes that there is no ongoing Federal need to maintain these requirements at the Federal level. FNPRM at ¶¶ 207 and 208.

The Public Utilities Commission of Ohio (PUCO or Ohio Commission) hereby submits its reply comments consistent with the FCC's invitation for public input in the above-captioned proceedings.

DISCUSSION

The PUCO supports the National Association of Regulatory Utility Commissioners' (NARUC's) comments reflecting that it is premature to set a sunset for the FCC's accounting requirements and reporting requirements. The Ohio Commission also supports NARUC's belief that a national system of accounting and reporting requirements helps to ensure that there is no cross-subsidization among ILECs and their competitive affiliates. The Ohio Commission also agrees that the information provides uniformity and comparability among companies.

The Ohio Commission further supports NARUC's comments reflecting that, in the transition to more competitive markets, accounting and reporting requirements should be the last to be eliminated among unnecessary rules. That is, without adequate accounting records, regulators lack critical information necessary to make informed decisions. In addition we agree that diminished accounting responsibility and reporting undercuts regulatory decision-making and the ability to curtail anti-competitive activity. The Ohio Commission maintains that a wholesale sunset of the FCC's current uniform system of accounts (USOC) accounting and reporting rules by a date certain would be premature and unjustified.

The Ohio Commission endorses NARUC's contention that accounting and reporting requirements should be removed only after there is clear and incontrovertible evidence that doing so would be in the public interest. Specifically, the FCC's affiliate transactions rules should not be eliminated until there is a finding of effective competition and non-dominance. As NARUC has noted, these rules protect ratepayers from possible cross-subsidies occurring from transactions between the ILECs and their affiliates. Without these rules, the FCC would not be able to uphold its statutory obligations under the 1996 Act to ensure against cross-subsidization between competitive and non-competitive services. Moreover, to prevent cross subsidization between ILECs and CLEC affiliates, the FCC and State regulators should ensure that the actual competition ILECs face is sufficient to prevent abuse and anti-competitive practices. Consequently, the FCC should only eliminate ILEC reporting requirements after they have been declared non-dominant. Once a carrier is truly non-dominant the issue of cross-subsidization is academic. The PUCO also observes that such an undertaking to maintain the current accounting and reporting requirements is consistent with the 1996 Act's directives that ILECs not subsidize competitive services with rate from local services. The Ohio Commission concurs with NARUC's belief that the most effective way Federal and State regulators have found to ensure no cross-subsidization is through the implementation of uniform accounting requirements and through the use of a cost allocations to account for related and non-regulated service offerings.

The Ohio Commission also supports Sprint Corporation's claims that additional reforms are neither desirable nor warranted at this time. Sprint maintains that significant changes have been adopted by the FCC and the industry, and State commissions need time to sort out and assess the changes. The Ohio Commission also agrees with the Public Service Commission of Wisconsin's position on the timing of additional accounting and reporting reforms in that there is no need for additional reforms given the fact that local exchange competition is in its early stages.

Likewise, the Ohio Commission endorses the comments of the Rural Utility Service (RUS), which reflect that the FCC's current accounting and reporting rules were designed to provide uniform accounting data and financial information that enables both management and regulators to assess the performance of the service providers. Moreover, these data are also relied upon by investors and lenders; therefore, the elimination of the current requirements would result in insufficient information to make accurate decisions to the possible detriment of the industry, consumers, and investors.

Ohio, like many other State commissions, relies heavily on the FCC-prescribed system of accounting and reporting to perform its regulatory responsibilities. Ohio opposes the sunset provisions elucidated in this FCC FNPRM. In view of the modest pace of competition in local exchange markets, there will be a continuing need for regulatory accounting and reporting requirements at the State level. When companies achieve non-dominant status and retail rates are established other than by cost-based means, the need to follow regulatory accounting becomes a moot issue. Thus, there will be a need for a regulatory accounting system to remain in place for the foreseeable future, and companies that meet prescribed market share tests and retail pricing criteria should be relieved of following the regulatory accounting system.

The Ohio Commission also supports NARUC's recommendation that Continuing Property Records (CPRs) rules should be maintained. CPR requirements serve the interests of both State and Federal regulators since they are used to ensure that the network plant accounts accurately reflect those assets actually in service. The Ohio Commission further observes that in addition to property valuations, these records are also essential to cost allocations and jurisdictional separations. Moreover, CPRs are used to arrive at an accurate calculation for universal service support. If these requirements were eliminated, the calculations of such support would be uncertain.

The Ohio Commission informs the FCC that currently only two of Ohio's forty-three ILECs are subject to intrastate alternative (or incentive) regulation. That is, in the State of Ohio, retail prices for local exchange services for the majority of LECs in Ohio are based on traditional cost-based, rate-of-return rate setting procedures. Consequently, the FCC's accounting and record keeping requirement are relevant and relied upon by the Ohio Commission. Specifically, the FCC Part 32 Uniform System of Accounts for Telecommunications Companies, Part 36 Jurisdictional Separations Procedures, Part 64 (Subpart I) Allocation of Costs, and FCC CPR rules provide the underlying foundation for revenues, expenses, and plant accounting information that the companies and the PUCO relies upon when setting retail rates. While Ohio also has established alternative (performance based) rate setting procedures, currently only two LECs (Ameritech Ohio and Cincinnati Bell Telephone Company) have elected such regulation. A retail rate proceeding is a 9 to 12 month process where company provided financial information is carefully scrutinized by the Ohio Commission's staff to determine allowable costs, investment, and return on investment. The PUCO staff performs its own independent examination of company provided data, and it places great reliance on the integrity and uniformity of the FCC system of accounting (collectively parts 32, 36, 64, and CPRs) during its investigation.

Concerning LEC wholesale pricing, under the Ohio Local Service Guidelines, ILECs are required to set the carrier-to-carrier prices for unbundled network elements (UNEs) and interconnection services using Total Element Long-Run Incremental Cost (TELRIC) methodology. Some of the major cost components deriving the ultimate TELRIC calculation (such as common cost, shared costs, maintenance expenses, direct administrative expenses and depreciation expenses) are based on Uniform Systems of Accounts (USOA) data. Generally, ILECs consider all regulated expense from their corporate books "Part 64 regulated expenses." Analysis is performed to such expenses at an accounting code level (sometimes special studies are performed) to remove different accounts associated with functions, services, or products that are not relevant to the wholesale activities (*i.e.*, interconnection and UNE functions). The remaining expenses are TELRIC expenses. If the FCC where to subject its reporting requirements to a three-year sunset, it would be impossible to calculate accurately the ILECs' TELRICs.

Regarding resale requirements, under Ohio rules, all ILECs must make all telecommunications services available for resale. That is, all ILECs must make available for resale at wholesale rates any retail telecommunications services offered to subscribers who are not telephone companies. All competitive local exchange services are to be made available to purchase by any local exchange company. LECs are required to provide nondiscriminatory, automated operational support systems to enable other LECs reselling its retail telecommunications services to pre-order and order service, install, repair and assign numbers, monitor network status, and bill for local service. ILECs' retail telecommunications services available for resale are priced on a wholesale basis. Wholesale prices are determined on the basis of the retail rates charged to subscribers, excluding the portions thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the ILEC. Avoided costs are those costs that can be reasonably avoided when an ILEC provides a telecommunications service for resale at wholesale rates to a requesting company. The PUCO's rules specifically identify the avoided retail costs by USOA Part 32 accounts.

On a related matter, the Ohio Commission also notes that its operating budget is funded by an annual assessment to jurisdictional utility companies. The assessment amount is based on each company's annual intra-state revenues. Part 36 jurisdictional separation procedures provide the basis for separating State versus Federal revenues for the telecommunications industry.

The Ohio Commission agrees with NARUC that if the States' needs for detailed account information are ignored, States will be forced to create their own systems of accounts. The Ohio Commission also supports the comments of the Rural Utility

Service (RUS), which reflect that the FCC's rapid pace in reducing and eliminating Part 32 accounting and reporting requirements will lead to multiple agencies and commissions establishing many different requirements. Consequently, the ILECs' accounting systems will become more, rather than less, cumbersome for any ILEC operating in more than one State since individual States may require varying levels of reporting detail.

The Ohio Commission maintains that one unified national accounting and reporting system is more efficient than 51 potentially different systems. Moreover, as NARUC has noted, if 51 different systems are established, the ability to compare data between or among different State jurisdictions will be compromised. This compromised system of accounting and reporting could promote (and result in) gaming and misinformation on behalf of industry participants. Such unwarranted chaos and inconsistencies will also result in inefficient operations of both the companies and the States. In particular, the PUCO agrees with those who have commented that, absent uniform accounting and reporting rules to interpret generally accepted accounting principles (GAAP), ILECs will develop divergent accounting and reporting systems. Consequently, it will become impossible for regulatory agencies to review data in a timely and meaningful manner. The Ohio Commission maintains that if State commissions create their own system of accounts and reporting requirements, ILECs will face much more fragmented and onerous requirements.

The FCC's accounting system follows GAAP and merely provides a uniform structure to meet jurisdictional regulatory requirements; Part 32 does not replace GAAP. Such uniformity reduces regulatory lag because ILECs are aware up front of the information expected. Until ILECs are fully deregulated as a result of their non-dominant position in the marketplace, no ILEC should be permitted to forego the Part 32 requirements for an accounting system based on its own interpretation of GAAP

The elimination of the FCC accounting rules would result in greater costs to the PUCO and to Ohio's telecommunications companies, it would increase processing times for price change proceedings in Ohio, and it would increase the record keeping burden to telecommunications companies operating in multiple States. Assuming the elimination of the USOA by the FCC, the PUCO would need to establish and maintain its own system of accounts, since GAAP is often subject to interpretation and does not provide the level of detail necessary for a regulated industry. That is, the accounting and reporting rules eventually adopted by the Ohio Commission would need to be more rigorous and detailed than that allowed by GAAP.

In addition, it may be necessary for the PUCO to establish a full-time audit group devoted to periodic compliance audits of telecommunications companies' accounting practices or hiring outside consulting firms to perform audits on behalf of the PUCO.

Companies could also be required, in all proceedings before the PUCO, to provide financial information certified by external auditors. Adoption of such procedures would result in longer lead times to perform cost study analyses in price setting proceedings. For telecommunications companies operating in multi-state jurisdictions, the cost and time to maintain unique record keeping systems would be an additional burden. Also, as mentioned earlier, the value of this information would be diminished appreciably since comparisons of the same company in different jurisdictions would be rendered academic unless all State jurisdictions adopted the same accounting and reporting requirements.

CONCLUSION

The Ohio Commission opposes the FCC's proposed three-year sunset of its accounting and reporting requirements. Given the current state of local exchange competition, there is a continuing need for regulatory accounting and reporting requirements at the State level and Federal level. Only when there has been a demonstration of robust local exchange competition should the FCC consider the sunset of such rule. To eliminate the FCC's current rules would result in inefficient State-specific requirements to which carriers operating in multiple States would be required to adhere.

The PUCO thanks the FCC for the opportunity to file reply comments in this proceeding.

Respectfully submitted,

On Behalf of The Public Utilities Commission of Ohio

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